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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/790,593	03/02/2004	Sean Stavros Farley		2763

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EXAMINER

FISCHMANN, BRYAN R

ART UNIT PAPER NUMBER

3618

DATE MAILED: 07/13/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/790,593

Applicant(s)

FARLEY, SEAN STAVROS

Examiner

Bryan Fischmann

Art Unit

3618

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on 20 July 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 20 July 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Specification

1. The abstract is objected to because of the following:

A) Only the first word of the abstract should be capitalized.

B) The meaning of the words "for cart version" at the end of the abstract is considered unclear.

2. The specification is objected to because of the following:

A) The following recited phrases are unclear, awkwardly worded, and/or grammatically incorrect:

Note: The specification is considered replete with instances of awkward and sometimes unclear wording. Therefore, the Examiner cannot guarantee the following is a comprehensive listing of all awkward and unclear wording. Applicant is advised to review the specification for awkward and unclear wording.

1) The pages are not numbered.

2) In the middle of page 2, the word "the" should appear before the words "units are easily assembled".

3) The meaning of the recitation of "A further object of the invention is that there are many different configurations" that appears at the lower portion of page 2 is considered unclear.

4) The title "Brief Description of the Drawing Figures" is not present before the description of the drawing figures that begin on page 3.

5) It is standard convention to number the drawing figures Figure 1, Figure 2, Figure 3, etc., as opposed to "numbering" the drawing figures Figure "A", Figure "B", Figure "C", etc., as was done by Applicant.

6) The word "vertical" that appears in the middle of page 5 is misspelled.

7) The lower portion of page 5 recites "there is a Bottom Stop on the bottom of the Bottom Grill (11) which stops the compressed gas cylinder from hitting the floor".

It is considered unclear how this is accomplished, as the 12 "openings" in the top grill formed by the square partitions on the top grill appear to be "vertically aligned" with the lower 12 openings on the bottom grill formed by the square partitions on the bottom grill, such that a compressed gas cylinder placed through one of the 12 top openings would also pass through the "corresponding vertically aligned" bottom opening and hit the floor. Since Applicant does not illustrate the compressed gas cylinders, as best understood from reading the specification, it is assumed the cylinders are installed "vertically".

8) The middle portion of page 6 recites "Tappered Tubes". It is not believed that the term "Tappered" is a word. It is believed that it may have been the intent of Applicant to instead use the term "Tapered".

9) It is noticed that the Applicant has capitalized each term in the specification. While this is not generally done, it is not considered unacceptable. However, to be consistent, the term "plastic bushings" that appears in the penultimate line of the first paragraph of page 6 should be capitalized to be consistent.

Art Unit: 3618

10) It is not considered clear how the plastic bushings create a "friction lock joint" as set forth on pages 6 and 7. It would seem that there would have to be a taper, "interference fit", or other means to prevent relative movement of the bushings, handles or posts and grills. This has not been clearly set forth. Note that adding such information by amendment would likely constitute new matter.

Drawings

3. The drawings are objected to due to the following:

Note: The drawing figures are considered replete with objections. Therefore, the Examiner cannot guarantee the following is a comprehensive listing of all objections.

Applicant is advised to review the drawings for objections.

a) As noted above, the drawing figures should be "titled" 1, 2, 3, as opposed to "A", "B", "C"

b) The term "tappere" that appears in Figure "A" is not a word.

c) Figure "A" appears to use the labels "tapere tube (16)" and "caster (14)" but appears to fail to illustrate these components in Figure "A".

d) The drawing figures appear to contain two "Figure E's".

e) The drawing figures leave unclear whether the "handle (12)" and "post (15)" are the same, or separate parts.

4. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claim. Therefore, the manner in which the

plastic bushings support the top and bottom grills must be shown or the features canceled from the claim. No new matter should be entered.

See the specification objection and 112 rejection regarding the plastic bushings for further information.

5. This application has been filed with informal drawings which are acceptable for examination purposes only. Formal drawings will be required when the application is allowed.

Claim Objections

6. Claim 1 is objected to because of the following:

A) The use of the term "machine" in claim 1 is objected to, as the term "machine" implies something that is used to manufacture something and that has moving parts. A recommended alternative term is "cart".

B) The term "grill" that appears in claim 1 is objected to, as a grill is best understood to be something that food is cooked on. This is not consistent with the use intended by Applicant.

Note also the use of the term "grill" in the specification and abstract.

Claim Rejections - 35 USC § 112

7. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Art Unit: 3618

8. Claim 1 is rejected under 35 U.S.C. 112, second paragraph, as failing to set forth the subject matter which applicant regards as his invention.

Note: The claims are considered to be replete with unclear matter. Therefore, a comprehensive listing of all unclear matter cannot be guaranteed. Applicant is advised to review all claims for unclear matter.

A) Claim 1 recites "A pair of Handles or 4 Posts". It is not considered how a "post" differs from a "handle", or if only one component, or both is needed for assembly of the modular machine.

B) The meaning of "for cart version" in the last line of claim 1 is considered unclear.

C) Claim 1 recites "plastic bushings" From the specification, it is not considered clear how the plastic bushings create a "friction lock joint" in order to allow assembly of the modular "cart" as set forth on pages 6 and 7 of the specification. It would seem that there would have to be a taper, "interference fit", or other means to prevent relative movement of the bushings, handles or posts and grills. Note that adding such information would likely constitute new matter.

Claim Rejections - 35 USC § 103

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Art Unit: 3618

10. Claim 1 is rejected under 35 U.S.C. 103(a) as being unpatentable over Salsgiver, US Patent D217,714, in view of Choi, et al, US Patent 6,796,565.

Salsgiver teaches a cart for the storage or transportation of compressed gas cylinders, comprising:

a top and bottom grill (see the claim objection to the term grill), four posts and four casters.

Salsgiver fails to teach that the cart is modular through the use of “bushings”.

However, Choi, et al, teaches a modular cart that is assembled through the use of 8 pairs of plastic (line 41 of column 2) bushings (130 – see comment below). A cart that is made “modular” through the use of bushings is advantageous in that the cart may be made more compact for storage or transportation.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to utilize bushings to made the cart of Salsgiver modular, as taught by Choi, et al.

Regarding the claim 1 recitation “8 pair of Plastic Bushings” note that Figure 2 of Choi shows that each “pair of bushings” 130, is made-up of two bushings separated by reference number 131. Note also that 8 of reference number 130 of Choi would be required for the cart of Salsgiver to become “modular”.

Examiner's Comments

11. An examination of this application reveals that applicant is apparently somewhat unfamiliar with patent prosecuting procedure. While an inventor may prosecute the

application, lack of skill in this field usually acts as a liability in affording the maximum protection for the invention disclosed. Applicant is advised to secure the services of a registered patent attorney or agent to prosecute the application, since the value of a patent is largely dependent upon skillful preparation and prosecution. The Office cannot aid in selecting an attorney or agent. It is believed that with the assistance of an Attorney or Agent that the Applicant would be able to claim patentable subject matter, if the specification and drawing objections and 112 2nd paragraph rejections could be overcome without adding new matter.

12. Applicant may not be aware of the preferred methods of ensuring timely filing of responses to communications from the Office and may wish to consider using the Certificate of Mailing or the Certificate of Transmission procedures outlined below.

CERTIFICATE OF MAILING

To ensure that the Applicant's mailed response is considered timely filed, it is advisable include a "certificate of mailing" on the least one page (preferably on the first page) of the response. This "certificate" should consist of the following statement:

I hereby certify that this correspondence is being deposited
with the United States Postal Service as first class mail in an
Envelope addressed to "Commissioner of Patents and
Trademarks, Washington, DC 20231" on (date)
(Typed or printed name of the person signing this certificate)
(signature)

CERTIFICATE OF TRANSMISSION

Alternatively, if Applicant wishes to respond by facsimile, rather than by mail, another method to ensure that the Applicant's response is considered timely filed, is to include a "certificate of transmission" on at least one page (preferably on the first page) of the response. This method should be used by foreign applicants without access to the U.S. Postal Service. This "certificate" should consist of the following statement:

I hereby certify that this correspondence is being facsimile
transmitted
to the United States Patent and Trademark Office,
Fax No. (703)____ - _____ on (date).
(Typed or printed name of the person signing this certificate)
(signature)

These "Certificates" may appear anywhere on the page, and may be handwritten or typed. They must be signed, and the date must be the actual date on which it is mailed or transmitted. For the purpose of calculating extensions of time, the date shown on the certificate will be construed as the date on which the paper was received by the Office, regardless of the date the U.S. Postal Service actually delivers the response, or the fax is "date-stamped" in. In this way, postal or transmission delays do not affect the extension-of-time fee.

In the event that a communication is not received by the Office, Applicant's submission of a copy of the previously mailed or transmitted correspondence showing the originally signed Certificate of Mailing or Transmission statement thereon, along with a statement from the person signing the statement which attests to the timely mailing or transmission date of the correspondence, would be sufficient evidence to entitle the Applicant to the mailing or transmission date of the correspondence as listed on the Certificate of Mailing, or Transmission, respectively.

13. Also note that any amendments in reply to this Office Action must be in compliance with 37 CFR 1.121, which may be found on the PTO web site www.uspto.gov.

Conclusion

14. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Williams, Joyce, Larson, Salsgiver ('529), Hutchins, Ivano, Sloan, III, Hurt, Frehsee and Violo – teach carts

15. Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Bryan Fischmann whose telephone number is (571) 272-6694. The examiner can normally be reached on Monday through Friday from 8:30 to 5:00.

If attempts to reach the Examiner by telephone are unsuccessful, the examiner's supervisor, Chris Ellis, can be reached on (571) 272-6914. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Art Unit: 3618

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


BRYAN FISCHMANN
PRIMARY EXAMINER 7-9-5